



Press and Information

Court of Justice of the European Union

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Advocate General's Opinion in joined Cases C-515/17 P and C-561/17 P  
Uniwersytet Wrocławski and others v REA

**Advocate General Bobek: the General Court erred in law when it held that the existence of a teaching contract between an applicant and its legal representative meant that the requirement of independent legal representation was not satisfied**

*The order under appeal should therefore be set aside*

In 2016 Uniwersytet Wrocławski (University of Wrocław, Poland) filed an action before the General Court seeking to contest a decision adopted by the Research Executive Agency ('REA') ordering the university to pay back certain funds previously granted to it. That action was declared inadmissible for lack of proper legal representation.<sup>1</sup> According to the General Court, the University of Wrocław's legal representative did not satisfy the requirement of independence that attaches to the concept of a 'lawyer' within the meaning of the third paragraph of Article 19 of the Statute of the Court of Justice.<sup>2</sup> This was because the representative, qualified as a lawyer under Polish law and practising in a law firm, was also teaching classes as an external lecturer at the University of Wrocław and had concluded a civil law contract with the university for that purpose. In the view of the General Court, the existence of that contract meant that the requirement of independent legal representation was not satisfied. In particular, the General Court held that even if the absence of a relationship of subordination between the University of Wrocław and its legal representative means that, formally speaking, there is no employment relationship, there is still a risk that the professional opinion of the legal representative might be influenced, at least partly, by his professional environment.

The order made by the General Court was appealed by the University of Wrocław (C-515/17 P) and by Poland (C-561/17 P).

In today's Opinion, Advocate General Michal Bobek considers that in order to comply with Article 19 of the Statute, an applicant must be represented by a lawyer who is duly authorised to practise before a national court of a Member State, as evidenced by the relevant certificate(s), and is a third party in relation to the applicant. In addition, the lawyer must not be precluded from acting in the context of the individual case either because of the existence of external pressure or by virtue of any conflict of interest that is discernible at the level of a reasonable hypothesis based on the given type of (present or past) relationship between the lawyer and the represented party.

Applying those criteria to the present case, the Advocate General notes, first, that as regards the proceedings that led to the order under appeal, the legal representative appears to have been *duly authorised to practise* before the Polish courts.

Second, the legal representative did not act, in the proceedings before the General Court, as an employed lawyer of the University of Wrocław and he was therefore clearly a *third party* in relation to his client. Moreover, it is undisputed that the contract at issue between the lawyer and University of Wrocław concerned teaching, not the provision of legal services before the General Court.

<sup>1</sup> Case [T-137/16](#) Uniwersytet Wrocławski v REA.

<sup>2</sup> That provision provides that non-privileged applicants must be represented before the courts of the European Union by a 'lawyer'.

Third, as regards a possible *conflict of interest*, it can be understood that the General Court assumed that such a conflict existed when it stated that the civil law contract between the legal representative and the University of Wrocław produced a risk that his professional opinion might be at least partly influenced by his professional environment.

The contract at issue concerned teaching of classes in international private law. No financial or other links between the University of Wrocław and the legal representative were revealed that could give rise to reasonable doubts as to the existence of a conflict of interest.

In those circumstances, the Advocate General concludes that the General Court erred in law when it interpreted the concept of a lawyer as suggesting that the link existing between the University of Wrocław and its legal representative could put the independence of the lawyer into question.

The Advocate General therefore proposes to set aside the order under appeal and to refer Case C-515/17 P back to the General Court.

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**NOTE:** The Advocate General's Opinion is not binding on the Court of Justice. It is the role of the Advocates General to propose to the Court, in complete independence, a legal solution to the cases for which they are responsible. The Judges of the Court are now beginning their deliberations in this case. Judgment will be given at a later date.

**NOTE:** An appeal, on a point or points of law only, may be brought before the Court of Justice against a judgment or order of the General Court. In principle, the appeal does not have suspensive effect. If the appeal is admissible and well founded, the Court of Justice sets aside the judgment of the General Court. Where the state of the proceedings so permits, the Court of Justice may itself give final judgment in the case. Otherwise, it refers the case back to the General Court, which is bound by the decision given by the Court of Justice on the appeal.

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The [full text](#) of the Opinion is published on the CURIA website on the day of delivery.

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